

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JG & PG on behalf of their minor child,
JG III and on their own behalves, LA
& GA on behalf of their minor child,
FA, and on their own behalves, M.S
and RS, on their own behalves and
on behalf of their minor child, MAS,
TS and NS on behalf of their minor
child VS and on their own behalves,
LB on behalf his minor child RB
and on his own behalf, TC and TC,
on behalf of their minor son, NC
, and on their own behalves, RB on
behalf of her minor son, NB and
on her own behalf,

VERIFIED ANSWER

Case No.: 08 CIV 5668 (SCR)

Plaintiffs,

-against-

TAMMY CARD, JOYCE SPIEGEL,
LORRIE REYNOLDS, JOSEPH LEVY, SHERRY
STREITAS, CAROL DeALLEAUME,
DR. ROBERT J. REIDY, JR. and
MAHCPAC CENTRAL SCHOOL DISTRICT,

Defendants.

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Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH
LEVY and SHERRY FREITAS s/h/a SHERRY STREITAS, by their attorneys,
HENDERSON & BRENNAN, ESQS., answering plaintiffs' complaint,
respectfully allege as follows:

FIRST: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS,
JOSEPH LEVY and SHERRY FREITAS deny knowledge and information
sufficient to form a belief as to the truth of the allegations set
forth in paragraphs "2", "3", "5", "12", "13", "14", "15", "16", "18"
and "19" of plaintiffs' complaint.

SECOND: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs designated "1", "10 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j)" and "11" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF JG III

THIRD: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "20", "21", "22", "23", "24", "25", "27", "28", "29", "31", "32", "33", "34", "35", "36", "37", "38", "39", "40", "41", "42", "43", "44", "45", and "45 (A)" of plaintiffs' complaint.

FOURTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraph designated "30" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF FA

FIFTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "46", "47", "48", "49", "50", "51", "52", "53", "54", "55", "56", "57", "58", "59", "61", "62", "63", "65", "66", "67", "68", "69", "70", "71", "72", "73", "74", "75", "76", "77", "78", "79", "80", "81", "82", "83", "84", "85", "86", "87", "88", "89", "90" and "91" of plaintiffs' complaint.

SIXTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs "60" and "64" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF MAS

SEVENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "92", "93", "94", "95", "96", "97", "98", "99", "100", "101", "101(A)", "101(B)" "102", "103", "104", "108", "109", "110", "111", "112", "113", "114", "116", "117", "118", "119", "120", "121", "122", "123", "124", "125", "126", "127", "128", "129", "130", "131", "132", "133", "134", "135", "136", "137" and "138" of plaintiffs' complaint.

EIGHTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs "105", "106", "107" and "115" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF VS

NINTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "139", "140", "141", "142", "143", "144", "150", "151", "152", "153", "154", "155", "155(A)" and "156" of plaintiffs' complaint.

TENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs designated "145", "146", "147", "148", and "149" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF RB

ELEVENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "157", "158", "159", "164" and "165" of plaintiffs' complaint.

TWELTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs designated "160", "161", "162" and "163" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF NC

THIRTEENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "166", "167", "168", "169", "170", "171", "172", "173", "174", "176", and "177" of plaintiffs' complaint.

FOURTEENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraph designated "175" of plaintiffs' complaint.

AS TO THE CAUSE OF ACTION OF NB

FIFTEENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraphs "178", "179", "180", "181", "182", "183", "184", "186", "187", "188", "189", "190", "191", "193", "198" and "202" of plaintiffs' complaint.

SIXTEENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs designated "185", "192", "194", "195", "196", "197", "199", "200" and "201" of plaintiffs' complaint.

AS TO THE CAUSES OF ACTION

SEVENTEENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, repeat and reallege each and every denial with respect to paragraphs "1" through "202" of plaintiffs' complaint with the same force and effect as if fully set forth at length herein.

EIGHTEENTH: Defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, deny each and every allegation set forth in paragraphs designated "204", "205", "206", "207", "208", "209", "210", "211", "212", "213", "214", "215", "216" and "217" of plaintiffs' complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

NINETEENTH: That the causes of action alleged in the plaintiffs' complaint are barred in that the action was not commenced within the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

TWENTIETH: That the complaint should be dismissed against the defendants in that, if, after trial, plaintiffs should prove that plaintiffs sustained injuries and damages as alleged, such injuries and damages resulted from intervening and/or interceding acts of superseding negligence on the part of third parties over whom these defendants had no control.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

TWENTY-FIRST: That plaintiffs' complaint and all liability and damages contained therein shall be controlled, limited and subject to Article 16 of the Civil Practice Laws and Rules.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

TWENTY-SECOND: Pursuant to Section 1601 of the Civil Practice Laws and Rules, in the event that plaintiffs recover anything against these answering defendants, such answering defendants shall not be liable for more than their proportionate share of non-economic loss, if such proportionate share is fifty percent or less of the total liability.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

TWENTY-THIRD: That the plaintiffs have failed to exhaust all of the relevant state and federal administrative remedies pursuant to the applicable statutes, rules and regulations.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

TWENTY-FOURTH: That plaintiffs have failed to state a cause of action for which relief can be granted.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

TWENTY-FIFTH: That plaintiffs have failed to state a cause of action for punitive damages for which relief can be granted.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

TWENTY-SIXTH: That plaintiff's complaint must be dismissed for failing to comply with 50(e), 50(h) and 50(i) of the General Municipal Law.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

TWENTY-SEVENTH: Plaintiffs adults, at all relevant times, failed to take reasonable action to mitigate the injuries and damages alleged in the complaint.

WHEREFORE, defendants, TAMMY CARD, JOYCE SPIEGEL, LORRIE REYNOLDS, JOSEPH LEVY and SHERRY FREITAS, demand judgment against the plaintiffs, dismissing the complaint, together with the costs and disbursements of this action.

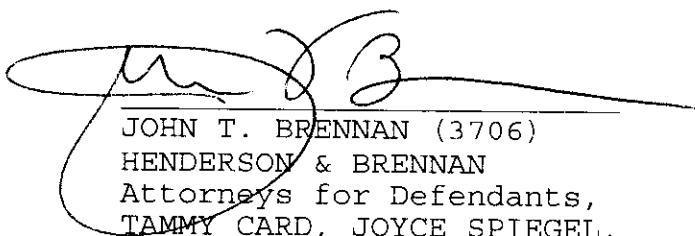
Dated: White Plains, New York
August 14, 2008

Yours, etc.,

TO: SUSSMAN & WATKINS
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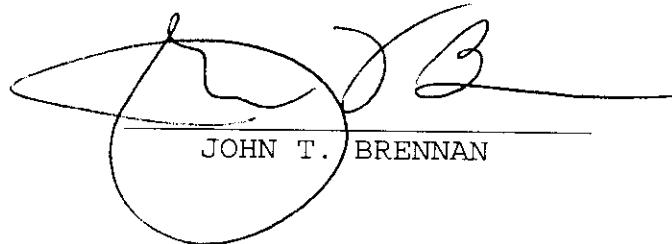
STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

I, the undersigned am an attorney admitted to practice in the courts of New York State, and say that: I am the attorney of record, or of counsel with the attorneys of record, for the defendants, TAMMY CARD, JOYCE SPIEGEL, JOSEPH LEVY, LORRIE REYNOLDS and SHERRY FREITAS. I have read the annexed Answer, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following: Statements, letters, and reports examined by me relative to the matters referred to.

The reason I make this affirmation instead of the defendants is that the defendants do not reside within the same County in which I maintain my offices.

I affirm that the foregoing statements are true under penalties or perjury.

Dated: White Plains, New York
August 14, 2008



JOHN T. BRENNAN

STATE OF NEW YORK)
ss.:
COUNTY OF WESTCHESTER)

Elizabeth Salgado being sworn says: I am not a party to the action, am over 18 years of age and reside at White Plains, New York.

On August 14, 2008, I served a true copy of the annexed Verified Answer Hearing in the following manner:

By mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

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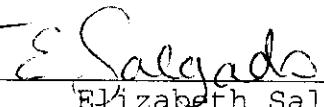
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Sworn to before me on August 14, 2008.


Notary Public

JOHN T BRENNAN
Notary Public, State of New York
No. 4924096
Qualified in Westchester County
Term Expires Feb. 22, 2010


Elizabeth Salgado